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DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

APPLICATION OF LAW AND ORDER REGULATIONS TO TRIBES ORGANIZED UNDER ACT OF JUNE 18, 1934

FEBRUARY 15, 1937.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Referring to the Law and Order Regulations which were approved by you under date of November 27, 1935, copy herewith, attention is invited to the second sentence of the third paragraph on page one, under the heading, "Application of Regulations," and which reads as follows: "Neither will these regulations apply to any tribe organized under the Act of June 18, 1934, except in so far as specific provisions thereof may be adopted and embodied in the constitution, by-laws, or ordinances of such an organized tribe."

As worded, the regulations now apply to Indian reservations (where Courts of Indian Offenses have been established) up to the time the tribe organizes, after which time they are not applicable to such organized tribe until law and order ordinances have been adopted by the tribe and have become effective. Therefore, at present, there is a hiatus between the time the tribal constitution is approved and the time when the tribal code becomes effective. Some of the tribes which have organized have not yet effectively adopted a Law and Order Code, but the Indian police and judges are attempting to enforce the Department code which is not, according to the code itself, applicable, and this might result in serious complications.

It is therefore recommended that said sentence two of paragraph three of the "Application of Regulations" be amended to read as follows:

These regulations shall continue to apply to tribes organized under the Act of June 18, 1934 (48 Stat. L. 984) until a Law and Order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective.

Respectfully submitted,

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved and so ordered: February 20, 1937.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 38-1393; Filed, May 16, 1938; 2:30 p. m.]

AMENDMENT OF REGULATIONS RELATIVE TO CROW INDIAN TRIBE AND RESERVATION IN MONTANA

MAY 14, 1937.

MR. ROBERT YELLOWTAIL, *Supt., Crow Agency*

DEAR MR. YELLOWTAIL: Reference is made to a letter dated October 26 and to one of May 6, 1936 from Chief Special Officer L. C. Mueller, copies of which were furnished you, relative to proposed amendments to the Departmental law and order regulations of November 27, 1935, which were desired by the Crow Indians.

The desired changes were discussed in detail by representatives of the Indian Office with the Crow Indian delegation which was in Washington recently, and have been given very careful consideration. As the result of the conferences held with the Crow delegates, the following amendments to the above mentioned regulations are hereby approved for application to the Crow Indian tribe and reservation in Montana.

Chapter 1, Section 5, Page 3. In the first sentence after the word "Reservation" insert "except the Trial Judge". At the end of sentence change the period to a comma and add: "and such tribunal shall be known as the Crow Tribal Court of Appeals".

Only one judge is now employed at the Crow Reservation. This judge resides at the Crow Agency where court is held

when necessary and as occasion requires, he also travels to distant points on the reservation for the purpose of holding court. The present plan is to select and have appointed three additional associate judges to be located as follows:

One at Pryor, Montana 75 miles from Crow Agency, one at Lodge Grass 22 miles from Crow Agency, one at St. Xavier 26 miles from Crow Agency. This will allow an appeal to be taken to three judges, none of whom will be the trial judge in the case under consideration.

Chapter 1, Section 6. Third paragraph. Juries. The first sentence is hereby amended to read as follows: "In any case, a jury shall be drawn from the list of eligible jurors by the judge." The last sentence on Page 3, Section 6, is hereby amended to read as follows: "If the jury is unable to reach an unanimous verdict, the verdict may be rendered by a two-thirds majority vote."

The object of the first amendment is to permit jurymen not resident in the vicinity of the tribe to serve where resident jurymen are likely to be prejudiced. The second amendment relative to the two-thirds rule for jury verdicts is desired by the Indians.

We are not approving the proposed amendment of Chapter 1, Section 6, fifth paragraph, which would raise the fee of a juror from 50 cents per day to \$2.00 per day.

Chapter 1, Section 7, Page 4. We are not approving the proposed amendment to raise witness fees from 50 cents per day to \$1.50 per day.

Chapter 1, Section 19, Page 7. Definition of Tribal Council. In accordance with the recommendation of the Crow delegation, this section is hereby amended to read as follows:

The term "Tribal Council" as used in these regulations shall be construed to refer to the Crow Tribal Council.

Chapter 2, Section 1, Page 8. Jurisdiction. The first sentence is hereby amended to read as follows: "The Courts of Indian Offenses shall have jurisdiction of all suits wherein the parties to the action are members of the tribe or tribes within their jurisdiction, . . ."

The Tribal Council and the Crow delegation desire this change.

Chapter 2, Section 3, Page 9, Third Line. The word, "shall" is hereby changed to the word "may".

This amendment is approved in view of the feeling expressed by the Crow delegation that there is not sufficient latitude in awarding damages if the word "shall" is insisted upon.

Chapter 2, Section 5, Page 9. This section is hereby amended by adding the following paragraph:

"No recovery may be had after five years from date of final judgment in any suit unless such judgment shall have been renewed before date of expiration".

Chapter 3, Section 2, Page 10. Strike out all of this section and insert in lieu thereof the following: "The Montana State law shall control all future marriages and divorces among members of the Crow Tribe."

Chapter 3, Section 3, Page 10. Strike out all of this section and insert in lieu thereof the following:

"No future adoptions among or by the Crow Indians shall be recognized except those made in accordance with the Act of March 3, 1931 (46 Stat. 1494)."

Chapter 3, Section 5, Page 11. Strike out all of this section and insert in lieu thereof the following:

"The Superintendent of the Crow Reservation shall have authority to protect, impound or convert into cash, for the benefit of the estate, any personal property which may be left by any decedent who is an enrolled member of the Crow Tribe, pending final determination of the heirs of said decedent by the Secretary of the Interior, and in accordance with existing law and regulations."

Chapter 3, Section 6, Pages 11 and 12. Strike out all of this section and insert in lieu thereof the following:

"The determination of the validity of wills shall be left to the Secretary of the Interior under applicable regulations."

Chapter 4, Section 2, Page 14. The first paragraph of this section is hereby amended to read as follows: "Where sentence has been imposed upon any Indian, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation, upon his signing a pledge of good conduct during the period of the sentence."

Chapter 4, Section 4, Page 14. This section is hereby amended by adding the following: "In the absence of either parent or guardian, the court shall appoint a suitable person to represent the delinquent child."

Chapter 5, Section 13, Page 18. The last sentence is hereby amended to read as follows: "For the commission of such offense while under the influence of liquor, the offender may be sentenced for the first offense to labor for a period not to exceed three months and for a second or subsequent offense for a period not to exceed six months and may be deprived of his right to operate any motor vehicle for a period of one year."

Chapter 5, Sections 22 and 23, Page 20. In connection with these sections the tribe and the delegation strongly recommended the insertion of an additional section to be known as No. 22a covering the offense of fornication. The following section is hereby inserted:

"Section 22a. Fornication. Any Indian who shall have sexual intercourse with another person, neither of such persons being married, shall be deemed guilty of fornication and upon conviction thereof shall be sentenced to labor for a period of not to exceed 25 days."

Chapter 5, Section 25, top of Page 21. This section is hereby amended by the addition of the following words to the last sentence: "or found to be afflicted with any communicable disease".

The purpose of this amendment is to permit the Court of Indian Offenses to compel medical treatment of any person afflicted with any communicable disease, whether or not he has actually communicated that disease to another.

Chapter 5, Section 26, Page 21. This section is hereby amended by adding the following paragraph:

"The Court of Indian Offenses shall also have authority to order and compel the payment of all alimony lawfully awarded in any divorce proceeding by any State court having jurisdiction, and non-payment of such awards shall be accepted as conclusive evidence of failure to provide for dependent persons under this section; provided, however, that an appeal may be taken to the Tribal Court of Appeals whose decision shall be final."

Chapter 5, Page 23. The following section, to be numbered 37, is hereby added:

"No complaint shall be filed charging the commission of an offense, as defined under Chapter 5, unless such offense shall have been committed within one year prior to the date of the complaint."

We should like to take this opportunity to say that the amendments recommended by the Tribal Council and discussed with the Crow delegation give evidence of sincere and careful thought on the part of both the Tribal Council and the delegation.

Sincerely yours,

JOHN COLLIER, Commissioner.

Approved, June 2, 1937.

CHARLES WEST,

Acting Secretary of the Interior.

[F. R. Doc. 38-1395; Filed, May 16, 1938; 2:33 p. m.]

SPECIAL REGULATIONS GOVERNING LAW AND ORDER ON THE
NAVAJO AND HOPI JURISDICTIONS IN ARIZONA AND NEW MEXICO
AS APPROVED JUNE 2, 1937

JUNE 1, 1937.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: It is respectfully recommended that the Law and Order Regulations approved by you under date of November 27, 1935, be amended in so far as they apply to the Navajo Indian Reservation, including Hopi, by the addition thereto of sections 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 of Chapter 5, in accordance with the attached copy of the regulations.

These additions have been discussed with Superintendent Fryer of the Navajo Reservation and meet with his approval.

Sincerely yours,

JOHN COLLIER, Commissioner.

Approved June 2, 1937.

OSCAR L. CHAPMAN,

Assistant Secretary.

LAW AND ORDER REGULATIONS

Application of Regulations

The following regulations relative to Courts of Indian Offenses shall apply to all Indian reservations on which such courts are maintained.

It is the purpose of these regulations to provide adequate machinery of law enforcement for those Indian tribes in which traditional agencies for the enforcement of tribal law and custom have broken down and for which no adequate substitute has been provided under Federal or State law.

No Court of Indian Offenses will be established on reservations where justice is effectively administered under State laws and by State law enforcement agencies. These regulations shall continue to apply to tribes organized under the Act of June 18, 1934 (48 Stats. L. 984) until a Law and Order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective. (Circular 3196.)

Chapter 1. Courts of Indian Offenses

SECTION 1. Jurisdiction.—A Court of Indian Offenses shall have jurisdiction over all offenses enumerated in Chapter 5, when committed by any Indian, within the reservation or reservations for which the Court is established.

With respect to any of the offenses enumerated in Chapter 5 over which Federal or State courts may have lawful jurisdiction, the jurisdiction of the Court of Indian Offenses shall be concurrent and not exclusive. It shall be the duty of the said Court of Indian Offenses to order delivery to the proper authorities of the State or Federal Government or of any other tribe or reservation, for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

For the purpose of the enforcement of these regulations, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian tribe now under Federal jurisdiction, and a "reservation" shall be taken to include all territory within reservation boundaries, including fee patented lands, roads, waters, bridges, and lands used for agency purposes.

All Indians employed in the Indian Service shall be subject to the jurisdiction of the Court of Indian Offenses but any such employee appointed by the Secretary of the Interior shall not be subject to any sentence of such Court, unless such sentence shall have been approved by the Secretary of the Interior.

SEC. 2. Appointment of Judges.—A Court of Indian Offenses established for any reservation or group of reservations, shall consist of one or more chief judges, whose duties shall be regular and permanent, and two or more associate judges, who may be called to service when occasion requires, and who shall be compensated on a per diem basis.

Each judge shall be appointed by the Commissioner of Indian Affairs, subject to confirmation by a two-thirds vote of the Tribal Council.

Each judge shall hold office for a period of four years, unless sooner removed for cause or by reason of the abolition of the said office, but shall be eligible for reappointment.

A person shall be eligible to serve as Judge of a Court of Indian Offenses only if he (1) is a member of a tribe under the jurisdiction of the said court; and (2) has never been convicted of a felony, or, within one year then last past, of a misdemeanor.

No Judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degrees, is a party.

SEC. 3. Removal of Judges.—Any Judge of the Court of Indian Offenses may be suspended, dismissed or removed, by the Commissioner of Indian Affairs, for cause, upon the recommendation of the Tribal Council.

SEC. 4. Court Procedure.—Sessions of the Court of Indian Offenses for the trial of cases shall be held by the Chief Judge, or, in case of his disability, by one of the associate judges selected for the occasion by all of the judges.

The time and place of court sessions, and all other details of judicial procedure not prescribed by these regulations, shall be laid down in Rules of Court approved by the Tribal Council and by the superintendent of the reservation.

It shall be the duty of the judges of each Court of Indian Offenses to make recommendations to the Tribal Council for the enactment or amendment of such Rules of Court in the interests of improved judicial procedure.

SEC. 5. Appellate Proceedings.—All the judges of the reservation shall sit together, at such times and at such places as they may find proper and necessary for the dispatch of business, to hear appeals from judgments made by any judge at the trial sessions. There shall be established by Rule of Court the limitations, if any, to be placed upon the right of appeal both as to the types of cases which may be appealed and as to the manner in which appeals may be granted, according to the needs of their jurisdiction. In the absence of such Rule of Court any party aggrieved by a judgment may appeal to the full court upon giving notice of such appeal at the time of judgment and upon giving proper assurance to the trial judge, through the posting of a bond or in any other manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein or by Rule of Court, the judgment of the trial judge shall not be executed until after final disposition of the case by the full court. The full court may render judgment upon the case by majority vote.

SEC. 6. Juries.—In any case where, upon preliminary hearing by the court, a substantial question of fact is raised, the defendant may demand a jury trial.

A list of eligible jurors shall be prepared by the Tribal Council each year.

In any case, a jury shall consist of six residents of the vicinity in which the trial is held, selected from the list of eligible jurors by the judge. Any party to the case may challenge not more than three members of the jury panel so chosen.

The judge shall instruct the jury in the law governing the case and the jury shall bring a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing law. If the jury is unable to reach a unanimous verdict, verdict may be rendered by a majority vote.

Each juror who serves upon a jury shall be entitled to a fee of fifty cents a day for each day his services are required in court.

SEC. 7. Witnesses.—The several judges of the Courts of Indian Offenses shall have the power to issue subpoenas for the attendance of witnesses either on their own motion or on the request of the Police Commissioner or Superintendent or any of the parties to the case, which subpoena shall bear the signature of the judge issuing it. Each witness answering such subpoena shall be entitled to a fee of fifty cents a day

for each day his services are required in court. Failure to obey such subpoena shall be deemed an offense as provided in Chapter 5, Sec. 36, of these regulations. Service of such subpoenas shall be by a regularly acting member of the Indian Police or by an Indian appointed by the Court for that purpose.

Witnesses who testify voluntarily shall be paid by the party calling them, if the court so directs, their actual traveling and living expenses incurred in the performance of their function.

Sec. 8. Professional Attorneys.—Professional attorneys shall not appear in any proceeding before the Court of Indian Offenses unless Rules of Court have been adopted as set forth in section 4 of this Chapter prescribing conditions governing their admission and practice before the Court.

Sec. 9. Clerks.—The Superintendent shall detail a clerk of court for each Court of Indian Offenses. The clerk of the Court of Indian Offenses shall render assistance to the Court, to the police force of the reservation and to individual members of the tribe in the drafting of complaints, subpoenas, warrants and commitments and any other documents incidental to the lawful functions of the Court. It shall be the further duty of said clerk to attend and to keep a written record of all proceedings of the court, to administer oaths to witnesses, to collect all fines paid and to pay out all fees authorized by these regulations, and to make an accounting thereof to the disbursing agent of the reservation and to the Tribal Council.

Sec. 10. Records.—Each Court of Indian Offenses shall be required to keep, for inspection by duly qualified officials, a record of all proceedings of the Court, which record shall reflect the title of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the Court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings shall be kept at the agency office, as required by United States Code, Title 25, sec. 200.

Sec. 11. Copies of Laws.—Each Court of Indian Offenses shall be provided with copies of all Federal and State laws and Indian Office regulations applicable to the conduct of Indians within the reservation.

Whenever the Court is in doubt as to the meaning of any law, treaty or regulation it may request the Superintendent to furnish an opinion on the point in question.

Sec. 12. Complaints.—No complaint filed in any Court of Indian Offenses shall be valid unless it shall bear the signature of the complainant or complaining witness, witnessed by a duly qualified Judge of the Court of Indian Offenses or by the Superintendent or by any other qualified employee of such reservation.

Sec. 13. Warrants to Apprehend.—Every Judge of a Court of Indian Offenses shall have the authority to issue Warrants to Apprehend, said warrants to issue in the discretion of the Court only after a written complaint shall have been filed, bearing the signature of the complaining witness. Service of such Warrants shall be made by a duly qualified member of the Indian Police or other police officer of the United States Indian Service. No Warrant to Apprehend shall be valid unless it shall bear the signature of a duly qualified Judge of the Court of Indian Offenses.

Sec. 14. Arrests.—No member of the Indian Police shall arrest any person for any offense defined by these regulations or by Federal law, except when such offense shall occur in the presence of the arresting officer or he shall have reasonable evidence that the person arrested has committed an offense or the officer shall have a warrant commanding him to apprehend such person.

Sec. 15. Search Warrants.—Every Judge of the Court of Indian Offenses of any Indian reservation shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said Court. However, no warrant of Search and Seizure shall issue except upon a duly signed and written complaint based

upon reliable information or belief and charging the commission of some offense against the tribe. No warrant for search and seizure shall be valid unless it contains the name or description of the person or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified Judge of the Court of Indian Offenses. Service of Warrants of Search and Seizure shall be made only by members of the Indian Police or police officers of the United States Indian Service.

No policeman shall search or seize any property without a warrant unless he shall know, or have reasonable cause to believe, that the person in possession of such property is engaged in the commission of an offense under these regulations. Unlawful search or seizure will be deemed trespass and punished in accordance with Chapter 5, Section 15 of these regulations.

Sec. 16. Commitments.—No Indian shall be detained, jailed or imprisoned under these regulations for a longer period than Thirty-Six (36) hours unless there be issued a commitment bearing the signature of a duly qualified Judge of the Court of Indian Offenses. There shall be issued, for each Indian held for trial, a Temporary Commitment and for each Indian held after sentence a Final Commitment on the forms prescribed in these regulations.

Sec. 17. Bail or Bond.—Every Indian charged with an offense before any Court of Indian Offenses may be admitted to bail. Bail shall be by two reliable members of any Indian tribe who shall appear before a Judge of the Court of Indian Offenses where complaint has been filed and there execute an agreement in compliance with the form provided therefor and made a part of these regulations. In no case shall the penalty specified in the agreement exceed twice the maximum penalty set by these regulations for violation of the offense with which the accused is charged.

Sec. 18. Definition of Signature.—The term "signature" as used in these regulations shall be defined as the written signature, official seal, or the witnessed thumb print or mark of any individual.

Sec. 19. Definition of Tribal Council.—The term "Tribal Council," as used in these regulations, shall be construed to refer to the council, business committee or other organization recognized by the Department of the Interior as representing the tribe, or where no such body is recognized, to the adult members of the tribe in council assembled.

Sec. 20. Relations with the Court.—No field employee of the Indian Service shall obstruct, interfere with or control the functions of any Court of Indian Offenses, or influence such functions in any manner except as permitted by these regulations or in response to a request for advice or information from the Court.

Employees of the Indian Service, particularly those who are engaged in social service, health and educational work, shall assist the Court, upon its request, in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Chapter 2. Civil Actions

SECTION 1. Jurisdiction.—The Courts of Indian Offenses shall have jurisdiction of all suits wherein the defendant is a member of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the Courts by stipulation of both parties. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant may be required to deposit with the clerk of the Court a fee or other security in a reasonable amount to cover costs and disbursements in the case.

Sec. 2. Law Applicable in Civil Actions.—In all civil cases the Court of Indian Offenses shall apply any laws of the United States that may be applicable, any authorized regulations of the Interior Department, and any ordinances or customs of the tribe, not prohibited by such Federal laws.

Where any doubt arises as to the customs and usages of the tribe the court may request the advice of counsellors familiar with these customs and usages.

Any matters that are not covered by the traditional customs and usages of the tribe, or by applicable Federal laws and regulations, shall be decided by the Court of Indian Offenses according to the laws of the State in which the matter in dispute may lie.

SEC. 3. Judgments in Civil Actions.—In all civil cases, judgment shall consist of an order of the Court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party.

Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss he has suffered.

Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant, which additional penalty may run either in favor of the injured party or in favor of the tribe.

Where the injury was inflicted as the result of accident, or where both the complainant and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he has suffered.

SEC. 4. Costs in Civil Actions.—The Court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible under Section 7 of Chapter 1, and the fees of jurors in those cases where a jury trial is had, and any further incidental expenses connected with the procedure before the Court as the Court may direct.

SEC. 5. Payment of Judgments from Individual Indian Moneys.—Whenever the Court of Indian Offenses shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within the time set for payment by the Court, and when the losing party has sufficient funds to his credit at the agency office to pay all or part of such judgment, the Superintendent shall certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgment, or such lesser amount as may be specified by the Secretary, from the account of the delinquent party.

A judgment shall be considered a lawful debt in all proceedings held by the Department of the Interior or by the Court of Indian Offenses to distribute decedents' estates.

Chapter 3. Domestic Relations

SECTION 1. Recording of Marriages and Divorces.—All Indian marriages and divorces, whether consummated in accordance with the State law or in accordance with tribal custom, shall be recorded within three months at the agency of the jurisdiction in which either or both of the parties reside.

SEC. 2. Tribal Custom Marriage and Divorce.—The Tribal Council shall have authority to determine whether Indian Custom Marriage and Indian Custom Divorce for members of the tribe shall be recognized in the future as lawful marriage and divorce upon the reservation, and if it shall be so recognized, to determine what shall constitute such marriage and divorce and whether action by the Court of Indian Offenses shall be required. When so determined in writing, one copy shall be filed with the Court of Indian Offenses, one copy with the Superintendent in charge of the reservation, and one copy with the Commissioner of Indian Affairs. Thereafter, Indians who desire to become married or divorced by the custom of the tribe shall conform to the custom of the tribe as determined. Indians who assume or claim a divorce by Indian custom shall not be entitled to remarry until they have complied with the determined custom of their tribe nor until they have recorded such divorce at the agency office.

Pending any determination by the Tribal Council on these matters, the validity of Indian custom marriage and divorce shall continue to be recognized as heretofore.

SEC. 3. Tribal Custom Adoption.—The Tribal Council shall likewise have authority to determine whether Indian Custom Adoption shall be permitted upon the reservation among members of the tribe, and if permitted, to determine what shall constitute such adoption and whether action by the Court of Indian Offenses shall be required. The determination of the Tribal Council shall be filed with the Court of Indian Offenses, with the Superintendent of the reservation and with the Commissioner of Indian Affairs. Thereafter all members of the tribe desiring to adopt any person shall conform to the procedure fixed by the Tribal Council.

SEC. 4. Determination of Paternity and Support.—The Courts of Indian Offenses shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the Court establishing the identity of the father of the child shall be conclusive of the fact in all subsequent determinations of inheritance by the Department of the Interior or by the Courts of Indian Offenses.

SEC. 5. Determination of Heirs.—When any member of the tribe dies leaving property other than an allotment or other trust property subject to the jurisdiction of the United States, any member claiming to be an heir of the decedent may bring a suit in the Court of Indian Offenses to have the Court determine the heirs of the decedent and to divide among the heirs such property of the decedent. No determination of heirs shall be made unless all the possible heirs known to the Court, to the Superintendent, and to the claimant have been notified of the suit and given full opportunity to come before the Court and defend their interests. Possible heirs who are not residents of the reservation under the jurisdiction of the Court must be notified by mail and a copy of the notice must be preserved in the record of the case.

In the determination of heirs the Court shall apply the custom of the tribe as to inheritance if such custom is proved. Otherwise the Court shall apply State law in deciding what relatives of the decedent are entitled to be his heirs.

Where the estate of the decedent includes any interest in restricted allotted lands or other property held in trust by the United States, over which the Examiner of Inheritance would have jurisdiction, the Court of Indian Offenses may distribute only such property as does not come under the jurisdiction of the Examiner of Inheritance, and the determination of heirs by the court may be reviewed, on appeal, and the judgment of the court modified or set aside by the said Examiner of Inheritance, with the approval of the Secretary of the Interior, if law and justice so require.

SEC. 6. Approval of Wills.—When any member of the tribe dies, leaving a will disposing only of property other than an allotment or other trust property subject to the jurisdiction of the United States, the Court of Indian Offenses shall, at the request of any member of the tribe named in the will or any other interested party, determine the validity of the will after giving notice and full opportunity to appear in court to all persons who might be heirs of the decedent, as under Section 5 of this Chapter. A will shall be deemed to be valid if the decedent had a sane mind and understood what he was doing when he made the will and was not subject to any undue influence of any kind from another person, and if the will was made in accordance with a proved tribal custom or made in writing and signed by the decedent in the presence of two witnesses who also sign the will. If the Court determines the will to be validly executed, it shall order the property described in the will to be given to the persons named in the will or to their heirs; but no distribution of property shall be made in violation of a proved tribal custom which restricts the privilege of tribal members to distribute property by will.

Chapter 4. Sentences

SECTION 1. Nature of Sentences.—Any Indian who has been convicted by the Court of Indian Offenses of violation of a provision of the Code of Indian Tribal Offenses shall be sentenced by the Court to work for the benefit of the tribe for

any period found by the Court to be appropriate; but the period fixed shall not exceed the maximum period set for the offense in the Code, and shall begin to run from the day of the sentence. During the period of sentence the convicted Indian may be confined in the agency jail if so directed by the Court. The work shall be done under the supervision of the Superintendent or of an authorized agent or committee of the tribal council as the Court may provide.

Whenever any convicted Indian shall be unable or unwilling to work, the Court shall, in its discretion, sentence him to imprisonment for the period of the sentence or to pay a fine equal to \$2 a day for the same period. Such fine shall be paid in cash, or in commodities or other personal property of the required value as may be directed by the Court. Upon the request of the convicted Indian, the disbursing agent may approve a disbursement voucher chargeable to the Indian's account to cover payment of the fine imposed by the Court.

In addition to any other sentence, the Court may require an offender who has inflicted injury upon the person or property of any individual to make restitution or to compensate the party injured, through the surrender of property, the payment of money damages, or the performance of any other act for the benefit of the injured party.

In determining the character and duration of the sentence which shall be imposed, the Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, and whether the offense was malicious or willful and whether the offender has attempted to make amends, and shall give due consideration to the extent of the defendant's resources and the needs of his dependents. The penalties listed in Chapter 5 of these regulations are maximum penalties to be inflicted only in extreme cases.

Sec. 2. Probation.—Where sentence has been imposed upon any Indian who has not previously been convicted of any offense, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation, upon his signing a pledge of good conduct during the period of the sentence upon the form provided therefor and made a part of these regulations.

Any Indian who shall violate his probation pledge shall be required to serve the original sentence plus an additional half of such sentence as penalty for the violation of his pledge.

Sec. 3. Parole.—Any Indian committed by a Court of Indian Offenses who shall have without misconduct served one half the sentence imposed by such Court shall be eligible to parole. Parole shall be granted only by a Judge of the Court of Indian Offenses where the prisoner was convicted and upon the signing of the form provided therefor and made a part of these regulations.

Any Indian who shall violate any of the provisions of such parole shall be punished by being required to serve the whole of the original sentence.

Sec. 4. Juvenile Delinquency.—Whenever any Indian who is under the age of 18 years is accused of committing one of the offenses enumerated in the Code of Indian Offenses, the judge may in his discretion hear and determine the case in private and in an informal manner, and, if the accused is found to be guilty, may in lieu of sentence place such delinquent for a designated period under the supervision of a responsible person selected by him or may take such other action as he may deem advisable in the circumstances.

Sec. 5. Deposit and Disposition of Fines.—All money fines imposed for the commission of an offense shall be in the nature of an assessment for the payment of designated court expenses. Such expenses shall include the payment of the fees provided for in these regulations to jurors and to witnesses answering a subpoena. The fines assessed shall be paid over by the Clerk of the Court to the disbursing agent of the reservation for deposit as a "special deposit, court funds" to the disbursing agent's official credit in the Treasury of the United States. The disbursing agent shall withdraw such funds, in accordance with existing regulations, upon the order of the Clerk of the Court signed by a judge of the Court, for the payment of specified fees to specified jurors or witnesses.

The disbursing agent and the Clerk of the Court shall keep an accounting of all such deposits and withdrawals for the inspection of any person interested. Whenever such fund shall exceed the amount necessary with a reasonable reserve for the payment of the court expenses before mentioned, the Tribal Council shall designate, with the approval of the Superintendent, further expenses of the work of the Court which shall be paid by these funds, such as the writing of records, the costs of notices or the increase of fees, whether or not any such costs were previously paid from other sources.

Wherever a fine is paid in commodities, the commodities shall be turned over under the supervision of the Clerk of the Court to the custody of the Superintendent to be sold or, if the Tribal Council so directs, to be disposed of in other ways for the benefit of the tribe. The proceeds of any sale of such commodities shall be deposited by the disbursing agent in the special deposit for court funds and recorded upon the accounts.

Chapter 5. Code of Indian Tribal Offenses

SECTION 1. Assault.—Any Indian who shall attempt or threaten bodily harm to another person through unlawful force or violence shall be deemed guilty of assault, and upon conviction thereof shall be sentenced to labor for a period not to exceed five days or shall be required to furnish a satisfactory bond to keep the peace.

Sec. 2. Assault and Battery.—Any Indian who shall wilfully strike another person or otherwise inflict bodily injury, or who shall by offering violence cause another to harm himself shall be deemed guilty of assault and battery and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 3. Carrying Concealed Weapons.—Any Indian who shall go about in public places armed with a dangerous weapon concealed upon his person, unless he shall have a permit signed by a judge of a Court of Indian Offenses and countersigned by the Superintendent of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days; and the weapons so carried may be confiscated.

Sec. 4. Abduction.—Any Indian who shall wilfully take away or detain another person against his will or without the consent of the parent or other person having lawful care or charge of him, shall be deemed guilty of abduction and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 5. Theft.—Any Indian who shall take the property of another person, with intent to steal, shall be deemed guilty of theft and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 6. Embezzlement.—Any Indian who shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof, shall be deemed guilty of embezzlement and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 7. Fraud.—Any Indian who shall by wilful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtain any money or other property, shall be deemed guilty of fraud and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 8. Forgery.—Any Indian who shall, with intent to defraud, falsely sign, execute or alter any written instrument, shall be deemed guilty of forgery and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 9. Misbranding.—Any Indian who shall knowingly and wilfully misbrand or alter any brand or mark on any livestock of another person, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 10. Receiving Stolen Property.—Any Indian who shall receive or conceal or aid in concealing or receiving any property, knowing the same to be stolen, embezzled, or ob-

tained by fraud or false pretense, robbery or burglary, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed three months.

Sec. 11. Extortion.—Any Indian who shall wilfully, by making false charges against another person or by any other means whatsoever, extort or attempt to extort any moneys, goods, property, or anything else of any value, shall be deemed guilty of extortion and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 12. Disorderly Conduct.—Any Indian who shall engage in fighting in a public place, disturb or annoy any public or religious assembly, or appear in a public or private place in an intoxicated and disorderly condition, or who shall engage in any other act of public indecency or immorality, shall be deemed guilty of disorderly conduct and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 13. Reckless Driving.—Any Indian who shall drive or operate any automobile, wagon, or any other vehicle in a manner dangerous to the public safety, shall be deemed guilty of reckless driving and upon conviction thereof shall be sentenced to labor for a period not to exceed 15 days and may be deprived of the right to operate any automobile for a period not to exceed six months. For the commission of such offense while under the influence of liquor, the offender may be sentenced to labor for a period not to exceed three months.

Sec. 14. Malicious Mischief.—Any Indian who shall maliciously disturb, injure or destroy any livestock or other domestic animal or other property, shall be deemed guilty of malicious mischief and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 15. Trespass.—Any Indian who shall go upon or pass over any cultivated or enclosed lands of another person and shall refuse to go immediately therefrom on the request of the owner or occupant thereof or who shall wilfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands, shall be deemed guilty of an offense and upon conviction shall be punished by a fine not to exceed \$5, in addition to any award of damages for the benefit of the injured party.

Sec. 16. Injury to Public Property.—Any Indian who shall, without proper authority, use or injure any public property of the tribe, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 17. Maintaining a Public Nuisance.—Any Indian who shall act in such a manner, or permit his property to fall into such condition as to injure or endanger the safety, health, comfort, or property of his neighbors, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed five days, and may be required to remove such nuisance when so ordered by the Court.

Sec. 18. Liquor Violations.—Any Indian who shall possess, sell, trade, transport or manufacture any beer, ale, wine, whisky or any article whatsoever which produces alcoholic intoxication, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 60 days.

Sec. 19. Cruelty to Animals.—Any Indian who shall torture or cruelly mistreat any animal, shall be deemed guilty of an offense and shall be sentenced to labor for a period not to exceed thirty days.

Sec. 20. Game Violations.—Any Indian who shall violate any law, rule or regulation adopted by the Tribal Council for the protection or conservation of the fish or game of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days; and he shall forfeit to the Court for the use of any Indian institution such game as may be found in his possession.

Sec. 21. Gambling.—Any Indian who shall violate any law, rule or regulation adopted by the Tribal Council for the con-

trol or regulation of gambling on any reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 22. Adultery.—Any Indian who shall have sexual intercourse with another person, either of such persons being married to a third person, shall be deemed guilty of adultery and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 23. Illicit Cohabitation.—Any Indian who shall live or cohabit with another as man and wife not then and there being married shall be deemed guilty of illicit cohabitation and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 24. Prostitution.—Any Indian who shall practice prostitution or who shall knowingly keep, maintain, rent or lease, any house, room, tent, or other place for the purpose of prostitution shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 25. Giving Venereal Disease to Another.—Any Indian who shall infect another person with a venereal disease shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed three months. The Court of Indian Offenses shall have authority to order and compel the medical examination and treatment of any person charged with violation of this section.

Sec. 26. Failure to Support Dependent Persons.—Any Indian who shall, because of habitual intemperance or gambling or for any other reason, refuse or neglect to furnish food, shelter, or care to those dependent upon him, including any dependent children born out of wedlock, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed three months, for the benefit of such dependents.

Sec. 27. Failure to Send Children to School.—Any Indian who shall, without good cause, neglect or refuse to send his children or any children under his care, to school shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed ten days.

Sec. 28. Contributing to the Delinquency of a Minor.—Any Indian who shall wilfully contribute to the delinquency of any minor shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 29. Bribery.—Any Indian who shall give or offer to give any money, property or services, or anything else of value to another person with corrupt intent to influence another in the discharge of his public duties or conduct, and any Indian who shall accept, solicit or attempt to solicit any bribe, as above defined, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months; and any tribal office held by such person shall be forfeited.

Sec. 30. Perjury.—Any Indian who shall wilfully and deliberately, in any judicial proceeding in any Court of Indian Offenses, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or procure another person so to do, shall be deemed guilty of perjury and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 31. False Arrest.—Any Indian who shall wilfully and knowingly make, or cause to be made, the unlawful arrest, detention or imprisonment of another person, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 32. Resisting Lawful Arrest.—Any Indian who shall wilfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

Sec. 33. Refusing to Aid Officer.—Any Indian who shall neglect or refuse, when called upon by any Indian Police or other police officer of the United States Indian Service, to

assist in the arrest of any person charged with or convicted of any offense or in securing such offender when apprehended, or in conveying such offender to the nearest place of confinement shall be deemed guilty of an offense, and upon conviction, shall be sentenced to labor for a period not to exceed ten days.

Sec. 34. Escape.—Any Indian, who, being in lawful custody, for any offense, shall escape or attempt to escape or who shall permit or assist or attempt to permit or assist another person to escape from lawful custody shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

Sec. 35. Disobedience to Lawful Orders of Court.—Any Indian who shall wilfully disobey any order, subpoena, warrant or command duly issued, made or given by the Court of Indian Offenses or any officer thereof, shall be deemed guilty of an offense and upon conviction thereof shall be fined in an amount not exceeding \$180 or sentenced to labor for a period not to exceed three months.

Sec. 36. Violation of an Approved Tribal Ordinance.—Any Indian who violates an ordinance designed to preserve the peace and welfare of the tribe, which was promulgated by the Tribal Council and approved by the Secretary of the Interior, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced as provided in the ordinance.

Sec. 37. Failure to Sell or Remove from Tribal Range Infectious or Cull Animals.—Any Indian who shall wilfully refuse to dispose of cull or infectious animals indicated for removal in accordance with the instructions contained in Section 4, of the Navajo Grazing Regulations, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to hard labor for a period of not to exceed 90 days, or a reduction of ten percent (10%) in his grazing permit.

Sec. 38. Introduction of Livestock Without Permit.—Any Indian who shall introduce or cause to be introduced any livestock into unallotted lands of the reservation without a permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to a period of not to exceed 60 days at hard labor.

Sec. 39. Stock Trespass in form of Unauthorized Use of Range.—Any Indian who shall wilfully graze stock in excess of permitted number on Tribal range, or who shall refuse to graze his livestock in accordance with range management plans which consider deferred grazing, the reservation of specific areas for seasonal use, etc., shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months, and, or, he shall be required to pay damages equal to the value of the forage consumed, salaries and expenses of employees for the time incurred in making investigation and reports. In lieu of cash, this fine, if levied, may be collected in livestock.

Sec. 40. Failure to Dip Sheep.—Any Indian who wilfully refuses to dip all of his sheep and goats according to regulations when so directed by the Superintendent or his authorized representative shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months or shall be subject to a fine not to exceed \$100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

Sec. 41. Making False Reports of Stock Owned.—Any Indian who wilfully makes a false report as to the total number of stock owned, or refuses to make a true report of stock ownership, shall be deemed guilty of an offense and upon conviction thereof, shall be fined not less than \$10 nor more than \$100. In lieu of cash this fine may be collected in livestock.

Sec. 42. Unauthorized Fencing of Tribal Land.—Any Indian who shall wilfully fence, for his own advantage, range land belonging to the Tribe, without first having secured a permit from The Superintendent shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to hard labor for a period not to exceed 6 months.

Sec. 43. Inter-District Trespass.—Any Indian who shall allow his stock to trespass on range allocated to others under

provisions of the Grazing Regulations, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be subject to a fine equal to the damage done the range allocated to others, or both.

Sec. 44. Grazing Stock Without Permit.—Any Indian who shall allow his stock to graze on tribal land without a grazing permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be fined not to exceed \$100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

Sec. 45. Refusing to Brand or Mark Livestock.—Any Indian who shall wilfully refuse to brand or mark his or her livestock where such branding or marking is required in the interest of ownership identification or for other purposes or who alters, obliterates or removes such brands or marks shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 60 days.

Sec. 46. Obstructing or Interfering with Livestock Round-ups.—Any Indian who shall interfere with or obstruct authorized roundups which have for their purpose the removal of unowned horses or other livestock, or for the purpose of determining ownership or for other purposes designed to protect tribal land from destruction, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months.

Sec. 47. Trespass on Areas Reserved for Demonstration Purposes.—Any Indian who shall commit wilful trespass on areas reserved for demonstration, administration, or agricultural purposes designed for the benefit of the Tribe, shall be guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed sixty days and shall be subject to a fine not exceeding \$100, or both. In lieu of cash, this fine, if levied, may be collected in livestock.

Chapter 6. The Indian Police

SECTION 1. Superintendent in Command.—The Superintendent of each Indian reservation shall be recognized as commander of the Indian Police force and will be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the Superintendent, or his duly qualified representative, to keep himself informed as to the efficiency of the Indian Police in the discharge of their duties, to subject them to a regular inspection, to inform them as to their duties and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Superintendent to detail such Indian policemen as may be necessary to carry out the orders of the Court of Indian Offenses and to preserve order during the court sessions. The Superintendent shall investigate all reports and charges of misconduct on the part of Indian policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations. No Superintendent of any Indian reservation shall assign or detail any member of the Indian Police force for duty as janitor or chauffeur or for any duty not connected with the administration of law and order.

Sec. 2. Police Commissioners.—The Superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, designate as Police Commissioner any qualified person. Wherever any special or deputy special officer is regularly employed in any Indian jurisdiction, he shall be Police Commissioner for that jurisdiction. Such Police Commissioner shall obey the orders of the Superintendent of the reservation where employed and shall see that the orders of the Court of Indian Offenses are properly carried out. The Police Commissioner shall be responsible to the Superintendent for the conduct and efficiency of the Indian Police under his direction and shall give such instruction and advice to them as may be necessary. The Police Commissioner shall also report to the Superintendent all violations of law or

regulation and any misconduct of any member of the Indian Police.

SEC. 3. Police Training.—It shall be the duty of the Superintendent to maintain from time to time as circumstances require and permit classes of instruction for the Indian policemen. Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and police activities, and with court orders and legal forms and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

SEC. 4. Indian Policemen.—The Superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian Police whose qualifications shall be as follows:

(a) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.

(b) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty.

(c) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

The duties of an Indian Policeman shall be:

(a) To obey promptly all orders of the Police Commissioner or the Court of Indian Offenses when assigned to that duty.

(b) To lend assistance to brother officers.

(c) To report and investigate all violations of any law or regulation coming to his notice or reported for attention.

(d) To arrest all persons observed violating the laws and regulations for which he is held responsible.

(e) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest.

(f) To prevent violations of the law and regulations.

(g) To report to his superior officers all accidents, births, deaths or other events or impending events of importance.

(h) To abstain from the use of intoxicants, or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department.

(i) To refrain from the use of profane, insolent or vulgar language.

(j) To use no unnecessary force or violence in making an arrest, search, or seizure.

(k) To keep all equipment furnished by the Government in reasonable repair and order.

(l) To report the loss of any and all property issued by the Government in connection with official duties.

SEC. 5. Dismissal.—The Superintendent of any Indian reservation may remove any Indian Policeman for any noncompliance with the duties and requirements as set out in Sec. 4 of these regulations or for neglect of duty.

SEC. 6. Return of Equipment.—Upon the resignation, death or discharge of any member of the Indian Police all articles or property issued him in connection with his official duties must be returned to the Superintendent or his representative.

[F. R. Doc. 38-1394; Filed, May 16, 1938; 2:31 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION WITH RESPECT TO BASE PERIOD TO BE USED FOR PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF CANTALOUPES, HONEYBALL AND HONEYDEW MELONS GROWN IN IMPERIAL COUNTY, CALIFORNIA, AND YUMA COUNTY, ARIZONA

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, it is hereby found and proclaimed

that, with respect to cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, the purchasing power of such cantaloupes, honeyball and honeydew melons during the base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, but the purchasing power of such cantaloupes, honeyball and honeydew melons can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period, August 1919-July 1929.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 17th day of May, 1938.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1404; Filed, May 17, 1938; 12:48 p. m.]

ORDER REGULATING HANDLING IN INTERSTATE AND FOREIGN COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE OF CANTALOUPES, HONEYBALL AND HONEYDEW MELONS GROWN IN IMPERIAL COUNTY, CALIFORNIA, AND YUMA COUNTY, ARIZONA

Whereas, it is provided in Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937¹ (hereinafter called the act), as follows:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for cantaloupes, grown in Imperial County, California, and Yuma County, Arizona, as would establish prices to growers at a level that will give such cantaloupes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such cantaloupes in the base period, did, pursuant to the provisions of the act and regulations thereunder, on the fourteenth day of April, 1938,² give notice of a hearing to be held in El Centro, California, on April 22, 1938, on a proposed order regulating the handling of cantaloupes grown in Imperial County, California, and Yuma County, Arizona, and did, upon said date and at said place, conduct a public hearing thereon, and did give opportunity to all interested parties to be heard concerning the said proposed order; and

Whereas, the Secretary has found and proclaimed that the purchasing power of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, during the period August, 1909-July, 1914, cannot be satisfactorily determined from the available statistics of the Department of Agriculture, but that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture for the period August, 1919-July, 1929, and the period August, 1919-July, 1929, is the base period to be used in connection with this order in determining the purchasing power of such commodity; and

¹ Public No. 137, 75th Congress.

² 3 F. R. 894 (DI).

Whereas, the Secretary further finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That at the time of the hearing the prices received by the growers of such cantaloupes, honeyball and honeydew melons were at a level that gave such melons a purchasing power with respect to articles that such growers buy appreciably below the purchasing power of such melons during the base period;

(2) That, in the past, lack of regulation of shipments of cantaloupes, honeyball and honeydew melons produced in Imperial County, California, and Yuma County, Arizona, was an important factor contributing to unstable marketing conditions for said melons and consequently depressed prices to growers;

(3) That the regulation of shipments by sizes of the melons covered by this order, as prescribed herein, will serve to prevent fluctuations of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said melons, tending to restore prices to growers of said melons to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of said melons in said base period;

(4) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to melons grown in the said area by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such melons a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such melons in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary of Agriculture further finds:

(1) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of melons shipped, as provided in this order, is fair and equitable;

(2) That the marketing agreement regulating the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, executed by him on May 17, 1938, and upon which a public hearing was held on April 22, 1938, was signed by handlers who handled more than fifty percent of such commodity produced during the period August 1, 1936-July 31, 1937; and

(3) That this order regulates the handling of said melons in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers, who, during the marketing season of 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such order;

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid,

that the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce in such melons, from and after the date herein specified shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. Definitions.—As used in this order the following terms shall have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States of America.

2. "Act" means Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Cantaloupe" means any and all varieties and strains of the netted gem type of muskmelon grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 811, division 5, chapter 2 of the Agricultural Code of the State of California, and all cantaloupes of the same type mentioned above grown in Yuma County, State of Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include the honeydew or honeyball type, or the winter melon or Casaba type.

5. "Honeyball" means small or medium sized, smooth white skinned melons of either the pink meated or green meated variety with little or no net on the surface, known in the trade as "honeyballs", and under the varieties of green meated, Globo de Oro, Melo-Gold, or any other variety grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 815, division 5, chapter 2 of the Agricultural Code of the State of California, and all honeyballs of the same varieties mentioned above or any other variety grown in Yuma County, Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include cantaloupes, the honeydew, or the winter melon or Casaba type.

6. "Honeydew" means the large white skinned, smooth, unnetted melons, known in the trade as "honeydews", grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 815, division 5, chapter 2 of the Agricultural Code of the State of California, and all honeydews of the same varieties grown in Yuma County, Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include cantaloupes, the honeyball, or the winter melon or Casaba type.

7. "Melons" means any of the cantaloupes, honeyballs, or honeydew melons defined above.

8. "Grower" or "producer" means any individual, each member of a partnership, any corporation, or association or any other business unit engaged in growing cantaloupes, honeyball or honeydew melons (as defined in this order) in the County of Imperial, State of California, or in the County of Yuma, State of Arizona, who or which has a financial interest in such melons.

9. "To ship" means to convey in, or handle for shipment in, to ship in, or to cause to be conveyed or handled for shipment in, or in any other way to put melons in, the channels of trade by conveying or causing cantaloupes, honeyball or honeydew melons, to be conveyed by railroad, truck, boat or any other means whatsoever (except as a common carrier of such melons owned by another person) in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

10. "Handler" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in cantaloupes, honeyball or honeydew melons, either in person or as or through any agent, broker, representative or otherwise,

in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

11. "Shipment" shall be deemed to take place when melons are loaded into a car or other conveyance for transportation in the current of interstate or foreign commerce.

12. "Crates" and "Flats" shall be known as and shall be of the following inside dimensions:

(a) "Jumbo Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 13" x 13" x 22 $\frac{1}{8}$ ".

(b) "Standard Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 12" x 12" x 22 $\frac{1}{8}$ ".

(c) "Pony Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 11" x 11" x 22 $\frac{1}{8}$ ".

(d) "Standard Cantaloupe or Honeyball Flat" is a crate having inside dimensions of 4 $\frac{1}{2}$ " x 13 $\frac{1}{2}$ " x 22 $\frac{1}{8}$ ".

(e) "Jumbo Cantaloupe or Honeyball Flat" is a crate having inside dimensions of 5" x 14" x 22 $\frac{1}{8}$ ".

(f) "Jumbo Honeydew Crate" is a crate having inside dimensions of 7 $\frac{3}{4}$ " x 16" x 22 $\frac{1}{8}$ ".

(g) "Standard Honeydew Crate" is a crate having inside dimensions of 6 $\frac{3}{4}$ " x 16" x 22 $\frac{1}{8}$ ".

(h) "Pony Honeydew Crate" is a crate having inside dimensions of 5 $\frac{3}{4}$ " x 14 $\frac{1}{2}$ " x 22 $\frac{1}{8}$ ".

Upon the recommendation of the Control Committee the Secretary may authorize "Crates" and "Flats" of dimensions other than those specified above.

There shall be a tolerance allowed of one-fourth inch over or under any inside dimension hereinabove specified except that a maximum tolerance of one-eighth inch shall be allowed for the height of cantaloupe and honeyball flats.

13. "Sizes" of cantaloupes or honeyballs shall be defined as follows:

(a) "Jumbo 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(b) "Jumbo 36s" means cantaloupes or honeyballs of such a size that 36 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(c) "Jumbo 27s" means cantaloupes or honeyballs of such a size that 27 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(d) "Standard 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Crate.

(e) "Standard 36s" means cantaloupes or honeyballs of such a size that 36 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Crate.

(f) "Pony 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Pony Cantaloupe or Honeyball Crate.

(g) "Pony 54s" means cantaloupes or honeyballs of such a size that 54 approximately uniform specimens will make a tight bulge pack in a Pony Cantaloupe or Honeyball Crate.

(h) "Standard 11s" means cantaloupes or honeyballs of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(i) "Standard 12s" means cantaloupes or honeyballs of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(j) "Standard 15s" means cantaloupes or honeyballs of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(k) "Jumbo 9s" means cantaloupes or honeyballs of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(l) "Jumbo 11s" means cantaloupes or honeyballs of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(m) "Jumbo 12s" means cantaloupes or honeyballs of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(n) "Jumbo 15s" means cantaloupes or honeyballs of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(o) "Regular cantaloupe and honeyball sizes" means cantaloupes or honeyballs of approximately uniform sizes which will pack in the crates enumerated in paragraph 12 (a) to (e), inclusive, and according to the sizes enumerated in paragraph 13 of this article.

(p) "Irregular cantaloupe and honeyball sizes" means cantaloupes or honeyballs of a size smaller than Pony 54s or larger than Jumbo 9s.

Upon the recommendation of the Control Committee the Secretary may authorize additional sizes other than those specified above.

14. "Sizes" of honeydews shall be defined as follows:

(a) "Jumbo 6s" means honeydews of such a size that 6 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(b) "Jumbo 8s" means honeydews of such a size that 8 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(c) "Jumbo 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(d) "Jumbo 11s" means honeydews of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(e) "Jumbo 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(f) "Standard 6s" means honeydews of such a size that 6 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(g) "Standard 8s" means honeydews of such a size that 8 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(h) "Standard 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(i) "Standard 11s" means honeydews of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(j) "Standard 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(k) "Standard 15s" means honeydews of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(l) "Pony 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(m) "Pony 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(n) "Pony 15s" means honeydews of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(o) "Regular honeydew sizes" means honeydews of approximately uniform sizes which will pack in the crates enumerated in paragraph 12, (f) to (h), inclusive, and ac-

cording to the sizes enumerated in paragraph 14 of this article.

(p) "Irregular honeydew sizes" means honeydews of a size that are smaller than Pony 15s and larger than Jumbo 6s.

Upon the recommendation of the Control Committee the Secretary may authorize additional sizes other than those specified above.

ARTICLE II—CONTROL COMMITTEE

SECTION 1. Membership and organization.—1. A Control Committee is hereby established consisting of nine members, of which four members shall be from the Brawley district, four members from the El Centro district, and one member from the Yuma district, all of whom shall be growers and handlers of cantaloupes, honeyball or honeydew melons produced in the districts which they represent. There is also established one alternate for each member of the Committee who shall serve on the Committee in the absence of the regular member. The persons composing the said Control Committee, their addresses, their alternates and their addresses, and the districts which the members and alternates represent are as follows:

| Committee member—name and address | Alternate member—name and address | District represented |
|--|--------------------------------------|------------------------|
| Charles Ward, Brawley, California. | F. Mallory, Brawley, California. | Brawley, California. |
| William Bailey, Brawley, California. | Earl Jack, Brawley, California. | |
| A. T. Arena, Brawley, California. | Robert Wilson, Brawley, California. | |
| Lou Housman, Brawley, California. | C. Cummings, Brawley, California. | |
| Fred R. Bright, El Centro, California. | Jerry Asher, El Centro, California. | El Centro, California. |
| M. C. Wahl, El Centro, California. | Floyd Smith, El Centro, California. | |
| Alex Engleman, El Centro, California. | M. O. Best, El Centro, California. | |
| H. K. Barker, El Centro, California. | Walter Farley, Calexico, California. | |
| E. M. McDaniel, Yuma, Arizona. | William Allen, Yuma, Arizona. | Yuma, Arizona. |

2. The term of the office of each member and each alternate of the Control Committee shall begin at the time that this order becomes effective and shall terminate on the date of the termination hereof.

3. In case of any vacancies occasioned by the death, resignation or removal of any member of the Control Committee or any alternate thereof, the Secretary shall designate a person to fill such vacancy. The Control Committee may nominate a person or persons to be considered by the Secretary in filling such vacancy. A vacancy occurring among the members representing any district shall be filled by a new member who is a grower and handler of cantaloupes, honeyball or honeydew melons produced in the same district.

(a) The Brawley district shall be that portion of Imperial County, California, consisting of the town of Brawley, and those districts adjacent thereto where cantaloupes, honeyball or honeydew melons are produced, which are closer to the town of Brawley by the public highways than to the town of El Centro.

(b) The El Centro district shall be that portion of Imperial County, California, consisting of the town of El Centro and those districts adjacent thereto where cantaloupes, honeyball or honeydew melons are produced, and which are closer to the town of El Centro by the public highways than to the town of Brawley.

(c) The Yuma district shall consist of the County of Yuma, State of Arizona.

4. Five members, or their alternates in the absence of a member, of the Control Committee shall be necessary to constitute a quorum, and the affirmative vote of not less than five members, or the alternates during the absence of the

members, of the Control Committee shall be required for any act to constitute an act of the Control Committee.

5. The members of the Control Committee and their alternates shall serve without compensation but shall be entitled to expenses necessarily incurred by them in the performance of their duties.

Sec. 2. Organization.—1. The Control Committee shall not perform any of its duties or exercise any of the powers herein granted, while there are more than three vacancies in its membership.

2. The Control Committee shall give the Secretary or his designated agents and representatives the same notice of meetings as is given to the members of the Committee.

Sec. 3. Inability of members to serve.—An alternate for a member of the Control Committee, elected pursuant to the provisions of this order, shall act in the place and stead of any member, until a successor for the unexpired term of such member has been selected, in the event of such member's (a) absence, (b) removal, (c) resignation, (d) disqualification, or (e) death.

Sec. 4. Powers of Control Committee.—The Control Committee shall have the following powers:

1. To administer, as hereinafter specifically provided, the terms and provisions of this order.

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of this order.

3. To receive, investigate and report to the Secretary complaints of violations of this order.

4. To recommend to the Secretary amendments to this order.

Sec. 5. Duties of Control Committee.—The Control Committee shall have the following duties:

1. To act as intermediary between the Secretary and any grower and shipper.

2. To keep minute books and records which will clearly reflect all of the acts and transactions of the Control Committee; and which minute books shall be subject at any time to examination by the Secretary or by any such person as may be designated by the Secretary.

3. To investigate, from time to time, and assemble data on the growing, shipping and marketing of cantaloupes, honeyball or honeydew melons grown in the States of California and Arizona, and to furnish the Secretary such information as may be requested.

4. To elect such officers and select such employees as it may deem necessary, and to determine the salaries and define the duties of any and all such employees.

5. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved on August 24, 1935, as amended.

6. To submit to the Secretary, for his approval, a budget of its expenses.

7. To defend all legal proceedings against any Committee members (individually or as members) or any officers or employees of said Committee, arising out of any act or omission made in good faith pursuant to the provisions of this order.

8. To cause the books of the Control Committee to be audited by one or more competent accountants at the termination hereof. Such audit shall indicate whether the funds have been received and expended in accordance with the provisions of this order.

Sec. 6. Removal and disapproval.—The members of the Control Committee, including successors and alternates and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension at any time by the Secretary. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in

reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 7. Funds.—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee, all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or vest in the successor of such member or employee full title to all books, records, funds and other property in the possession of or under the control of such member or employee pursuant to this order.

3. The Control Committee may maintain, with the approval of the Secretary, in its own name, or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses pursuant to this order.

ARTICLE III—REGULATION OF SHIPMENTS BY SIZE

SECTION 1. *Recommendation of the Control Committee.*—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to cantaloupes, honeyball and honeydew melons. Whenever such conditions make it advisable to regulate the shipment of cantaloupes, honeyball or honeydew melons by means of a regulation period, during which time the shipment of any size of cantaloupes, honeyball or honeydew melons shall be limited or restricted, pursuant to the provisions of this article, the Control Committee shall so recommend to the Secretary; provided, however, that:

2. No recommendation for limitation of shipment as to size of cantaloupes shall be made by the Control Committee unless and until the total daily rail and truck shipments of all cantaloupes by all handlers for any one day, as determined by the Control Committee, shall equal 150 cars or more from Imperial County, California, and Yuma County, Arizona, in which event, and at that time, the Control Committee shall forthwith recommend to the Secretary that no further shipments of Pony 45s, Pony 54s, and Irregular sizes shall be made during the regulation period or periods.

3. No other recommendation for limitation of shipments of cantaloupes as to size, shall be made by the Control Committee unless and until:

(a) The total daily shipment of all cantaloupes of all handlers, for any one day, as determined by the Control Committee, shall equal 250 cars from Imperial County, California, and Yuma County, Arizona, or

(b) The average price for cantaloupes for any given day, as determined by the Control Committee, shall be \$1.25 or less per Standard 45 crate or Jumbo 36 crate, f. o. b. Imperial County or Yuma County shipping points.

Upon the occurrence of either event, the Control Committee shall recommend to the Secretary the further regulation of sizes of cantaloupes as provided in section 1 of this article.

(c) In making recommendations for the regulation of shipments by sizes of cantaloupes, the Control Committee shall recommend the regulation of the following groups of sizes in the following order, but that no regulation of Standard 45, Jumbo 45 and Jumbo 15 sizes shall be recommended until all other sizes have been regulated. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular Sizes (as provided in paragraph 2, section 1 of this article).

(2) Standard 36s.

(3) Jumbo 27s, 11s and 9s.

(4) Standard 15s, 12s and 11s.

(5) Jumbo 36s and 12s.

(6) Other sizes as recommended by the Control Committee.

4. No recommendation for limitation of shipment as to size of honeyball melons of any variety shall be made by the Control Committee, unless and until the average price of any variety of honeyball melons for any given day, as determined by the Control Committee, shall be \$1.25 or less per Standard 45 crate or Jumbo 36 crate, f. o. b. Imperial County or Yuma County shipping points, in which event and at that time, and as to the variety or varieties reaching such price, the Control Committee shall forthwith recommend to the Secretary the separate regulation, by varieties, of the sizes of such melons, as provided in section 1 of this article.

(a) Upon the beginning of limitation of shipments of any specified variety as above provided, the Control Committee shall forthwith recommend to the Secretary that no further shipments of Pony 45s, Pony 54s, and Irregular sizes of such variety shall be made during the remainder of the regulation period or periods.

(b) Thereafter in making recommendations for the regulation of shipments of specified varieties by sizes of honeyballs, the Control Committee shall recommend the regulation of the following groups of sizes in the following order, but that no regulation of Standard 45, Jumbo 45 and Jumbo 15 sizes shall be recommended until all other sizes have been regulated. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular Sizes (as provided in paragraph 4 (a) of this article).

(2) Standard 36s.

(3) Jumbo 27s, and 9s.

(4) Standard 15s, 12s, and 11s.

(5) Jumbo 36s, 12s, and 11s.

(6) Other sizes as recommended by the Control Committee.

5. No recommendation for limitation of shipment as to size of honeydew melons shall be made by the Control Committee unless and until the average price of honeydew melons for any given day, as determined by the Control Committee, shall be \$0.65 or less for any Jumbo or Standard honeydew crate f. o. b. Imperial County or Yuma County shipping points, in which event and at that time, the Control Committee shall forthwith recommend to the Secretary regulation of the sizes of such melons as provided in section 1 of this article.

(a) In making recommendations for the regulation of shipments by sizes of honeydew melons, the Control Committee shall recommend the regulation of the following groups of sizes in the following order. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular sizes.

(2) Jumbo 6s, and Standard 6s.

(3) Other sizes as recommended by the Control Committee.

6. Cantaloupes, honeydews and the various varieties of honeyball melons shall be regulated separately as herein provided, upon the facts relating to each without reference to whether regulation is being had or the extent of regulation of the other types of melons.

7. Upon the recommendation of the Control Committee, the shipment of one size of cantaloupes, honeydews or the various varieties of honeyballs may be entirely eliminated or prohibited before any control is begun on any other size to be regulated.

8. The Control Committee shall determine and recommend to the Secretary the length of the regulation period for which each recommendation made by it is to apply.

which period shall not be shorter than twenty-four (24) hours, or longer than seven (7) days and the Control Committee may recommend to the Secretary that the amount of such regulated sizes which may be shipped daily during any period shall not be greater than a stated maximum percentage of each handler's total daily shipments, and, if the period be longer than twenty-four (24) hours, may also recommend that the Secretary fix the range below the maximum percentage established by the Secretary within which the Control Committee may, from time to time, during said period fix the amount of regulated sizes of each handler's total daily shipment which may be shipped. In such case the determination of the Control Committee shall be subject to such modification or revision by the Secretary as he may deem proper.

9. In the event a recommendation is made to the Secretary, the Control Committee shall furnish to the Secretary the information and facts upon which such recommendation is made, including, but not being limited to, information with respect to the factors affecting the supply of and demand for sizes of cantaloupes, honeyballs by varieties, or honeydew melons; and the Control Committee shall furnish the Secretary such other additional information as may be requested.

Sec. 2. *Regulation of shipments.*—1. Based upon the recommendations and information submitted by the Control Committee pursuant to the provisions of section 1 of this article, or based upon other information, the Secretary, if he determines that such regulation of the flow of shipments of cantaloupes, honeyball or honeydew melons, in the current of interstate or foreign commerce during such regulation period will tend to effectuate the declared policies of the Act, may establish a regulation period, including the time of commencement and termination thereof, during which time a limitation is placed upon the total shipments of any size or sizes of cantaloupes, honeyball or honeydew melons, which may be shipped during any such period.

2. Such regulation of shipments by sizes of cantaloupes, honeyball or honeydew melons may be accomplished by (a) prohibiting the shipment of certain sizes during said period, or (b) by prohibiting the shipment of a part of any size. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination; and the Control Committee shall immediately notify growers and handlers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

3. No handler shall ship any cantaloupes, or honeyball or honeydew melons, in violation of the regulations of shipments established pursuant to the provisions of this order.

Sec. 3. *Exemptions.*—1. In the event of a regulation period established pursuant to this order, the Control Committee shall determine the percentage which the sizes of cantaloupes, honeyball or honeydew melons, permitted to be shipped bears to the total crop of such melons which could be shipped in the absence of regulation. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates may be issued to growers or handlers pursuant to this section.

2. If any grower or handler shall present proof to the Control Committee that the regulation of shipments by sizes as aforesaid will allow him to ship during the specified period a percentage of his cantaloupes, honeyball or honeydew melons less than the percentage found in accordance with paragraph 1 in this section, such Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited sizes as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section: *Provided, however,* The Secretary shall have the power to authorize, disapprove or cancel the issuance of exemption certificates, and the Secretary may otherwise modify any action of the Control Committee pursuant to the provisions of this

section. Any decision made by the Secretary, pursuant to the provisions of this section, shall be final and conclusive.

Sec. 4. *Checking shipments.*—1. The Control Committee shall provide a means for checking all shipments of cantaloupes, honeyball, or honeydew melons, in interstate or foreign commerce in order to establish compliance or lack of compliance with the regulation of sizes herein provided for. This checking may be performed in such manner and to such extent as shall be determined by the Control Committee: *Provided, however,* That whenever there appears to be indications of violations of the regulations issued by the Secretary on the part of any handler, the Control Committee shall obtain Federal-State or other shipping point or terminal market inspection certificates containing a record of the sizes of cantaloupes, honeyball or honeydew melons in each car, for such handler.

2. Each handler shall, by 12 o'clock noon of the day following any shipment of cantaloupes, honeyball or honeydew melons, in interstate or foreign commerce, during the life of this order furnish to the Control Committee, a true and correct manifest by sizes and crates of cantaloupes, honeyball or honeydew melons, of each carload if shipped by rail, or a true and correct report of the sizes of cantaloupes, honeyball or honeydew melons of each load if shipped by truck. Such copies of such manifests of rail shipments and the report of truck shipments shall be sent daily to the office of the Control Committee including a true and correct statement showing all cars loaded for shipment, specifying cash sale prices and listing all unsold and rolling cars.

ARTICLE IV—EXEMPTIONS

SECTION 1. *Shipments for charity or for by-products.*—Nothing contained in this order shall be construed to authorize a limitation of the right to ship cantaloupes, honeyball or honeydew melons for canning, freezing, conversion into by-products, or for charitable or unemployment relief purposes.

Sec. 2. *Export shipments.*—Cantaloupes, honeyball or honeydew melons exported to foreign countries, not including Canada and Mexico, shall not be subject to regulation, pursuant to the provisions of article III hereof.

ARTICLE V—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the Control Committee under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses which the Secretary finds will be necessarily incurred by the Control Committee in the carrying out of its duties hereunder. Each handler's pro rata share of such expenses, as aforesaid, shall be that proportion thereof which the total quantity of cantaloupes, honeyball or honeydew melons shipped by such handler, during the term of this order, in the current of interstate or foreign commerce, is of the total quantity of such cantaloupes, honeyball or honeydew melons shipped by all handlers in the current of interstate or foreign commerce during the same time. Said assessment may be adjusted from time to time by the Control Committee with the approval of the Secretary in order to cover any later findings by the Secretary of estimated expenses or the actual expenses of the Control Committee during the term of this order. The assessment of each handler shall be due and payable at such time and in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. Every handler shall pay, in the manner and at the time provided in paragraph 2 of this section, \$2.00 for each straight carload of cantaloupes, honeyball or honeydew melons, and \$2.00 for each 20,000 pounds of such melons shipped in mixed cars or by truck, shipped by such handler during the term hereof: *Provided, however,* That if the Secretary shall find

at any time during the term of this order, that the rate of assessment fixed by this paragraph will result in the collection of a sum greater or smaller than the expense that will necessarily be incurred by the Control Committee, he shall increase or decrease such rate of assessment for the balance of the term so that the funds received from the collection of such assessment will more nearly equal such expenses.

4. At the termination of this order the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above such handler's pro rata share of the expenses or debit such handler with the difference between its pro rata share and the amount paid by such handler. Any such debits shall become due and payable upon the demand of the Control Committee.

5. From funds acquired pursuant to this article, the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VI—REPORTS

SECTION 1. Information to Secretary.—Each handler shall furnish, from time to time, upon request from the Secretary, such information as may be necessary to enable the Secretary to ascertain and determine the extent to which this order has been carried out and the purposes of this order have been effectuated, and, also, such other information as may be necessary to determine whether or not there has been abuse of the privilege of exemption from the Antitrust laws. Such information shall be furnished in accordance with such forms as may be prescribed by the Secretary.

Sec. 2. Reports.—1. Upon the request of the Control Committee each handler shall furnish to the Control Committee in such manner and at such times as it may prescribe such information as will enable it to perform its powers and duties under this order.

2. The Control Committee shall not reveal any information or reports to persons other than the Secretary. If any confidential employee discloses information or reports except as aforesaid, he shall be subject to immediate removal by the Secretary.

ARTICLE VII—LIABILITY TO COMMITTEE MEMBERS

SECTION 1. Liability.—No member of the Control Committee or any employee of the Control Committee shall be held responsible individually, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty. The liabilities of the handlers hereunder are several and not joint and no handler shall be liable for the default of any other handler.

ARTICLE VIII—SEPARABILITY

SECTION 1. Separability.—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this order and the applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

ARTICLE IX—DEROGATION

SECTION 1. Derogation.—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the Act or otherwise, or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE X—AMENDMENTS

SECTION 1. Proposals.—Amendments to this order may, from time to time, be proposed by any party subject hereto or by the Control Committee.

ARTICLE XI—DURATION OF IMMUNITIES

SECTION 1. Duration of immunities.—The benefits, privileges and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done

under and during the existence of this order, and benefits, privileges and immunities conferred by this order upon any party subject hereto shall cease, upon its termination, as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII—AGENTS

SECTION 1. Agents.—The Secretary may by a designation in writing name any person, including any officer or employee of the Government, or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE XIII—EFFECTIVE TIME AND TERMINATION

SECTION 1. Effective time.—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall, unless terminated as hereinafter provided, continue in force until midnight of July 31, 1938.

Sec. 2. Termination.—1. The Secretary may at any time suspend this order or any provision thereof.

2. The Secretary may at any time terminate this order.

3. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of such cantaloupes, honeyball and honeydew melons, who, during the present season, have been engaged in the production of such cantaloupes, honeyball and honeydew melons, in the area covered by this order: *Provided, however,* That such majority have, during such period produced more than fifty (50) percent of the volume of such cantaloupes, honeyball and honeydew melons produced within the area.

4. This order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

Sec. 3. Proceedings after termination.—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall, from time to time, account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and claims vested in the Control Committee or the joint trustees pursuant to this order; and (d) shall refund to each contributing handler the excess of the amount paid by such handler above his pro rata share of expenses, or debit each handler with the difference between his pro rata share and the amount paid by any handler, if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination of this order.

2. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, do hereby execute in duplicate and issue this order in the city of Washington, District of Columbia, on the 17th day of May 1938, and declare this order to be effective on and after 12:01 a. m., Pacific standard time, May 20, 1938.

(SEAL)

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1405; Filed, May 17, 1938; 12:48 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C. on the 13th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3360]

IN THE MATTER OF ALLIED SPECIALTIES, INC., A CORPORATION, RALPH J. BIERY, WILLIAM G. WHITE, AND ANNE STRINGER, INDIVIDUALLY, AND AS PRESIDENT, VICE-PRESIDENT AND SECRETARY-TREASURER, RESPECTIVELY OF SAID CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 31, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 233, Law Library, Federal Building, Indianapolis, Indiana.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-1396; Filed, May 17, 1938; 9:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT OF RULE MD1

Annual Reports of Registrants

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934 as amended, particularly Sections 15 (d) and 23 (a) thereof, hereby amends Rule MD1¹ by deleting the phrase "Provided, however, That the annual report covering any period ending prior to December 31, 1936, need not be filed prior to April 30, 1937" immediately preceding the period at the end of the first sentence, and inserting in lieu thereof the following phrase:

"Provided, however, That the duty to file annual reports pursuant to this rule shall be automatically suspended if and so long as an issuer by reason of the listing of any of its securities on an exchange exempted from registration as a national securities exchange, is required to file information, documents and reports substantially equivalent to such as would be required under Section 13 if securities of such issuer were listed and registered on a national securities exchange."

Rule MD1 as so amended reads as follows:

"RULE MD1. *Annual reports of registrants under Securities Act of 1933.*—Each issuer having securities registered under the Securities Act of 1933 and having a duty to file supplementary and periodic information, documents, and reports pursuant to Section 15 (d) of the Securities Ex-

change Act of 1934 shall file an annual report, on the appropriate form prescribed therefor, not more than 120 days after the close of each fiscal year ending after the close of the last full fiscal year for which financial statements of such issuer were filed in the registration statement, or at such other time as shall be prescribed in the instruction book applicable to the particular form; provided, however, that the duty to file annual reports pursuant to this rule shall be automatically suspended if and so long as an issuer, by reason of the listing of any of its securities on an exchange exempted from registration as a national securities exchange, is required to file information, documents and reports substantially equivalent to such as would be required under Section 13 if securities of such issuer were listed and registered on a national securities exchange. In case the registrant finds it impracticable to file the report at such prescribed time, it may file with the Commission an application for an extension of time to a specified date within 60 days after the prescribed time. Such application shall state the grounds of impracticability and shall contain an agreement to file the report on or before such specified date. The application shall be deemed granted unless the Commission within ten days after receipt thereof shall enter an order denying the application as being unreasonable and unnecessary under the circumstances."

The foregoing action of the Commission shall be effective immediately upon publication.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 38-1401; Filed, May 17, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of May 1938.

[File No. 7-117]

IN THE MATTER OF TWENTIETH CENTURY-FOX FILM CORPORATION COMMON STOCK, NO PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION

The Los Angeles Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Twentieth Century-Fox Film Corporation; and

The Los Angeles Stock Exchange having requested permission to withdraw said application;

It is ordered, That said request be and the same is hereby granted.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 38-1402; Filed, May 17, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 16th day of May 1938.

[File No. 1-132]

IN THE MATTER OF NEW YORK DOCK COMPANY 5% SERIAL GOLD NOTES, SERIES DUE 1938 (DUE APRIL 1, 1938)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and

¹2 F. R. 39 (DI).

No. 97—3

Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 5% Serial Gold Notes, Series due 1938 (due April 1, 1938), of New York Dock Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock A. M., on June 7, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer

herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSON, Secretary.

(F. R. Doc. 38-1403; Filed, May 17, 1938; 12:38 p. m.)